

MIP

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

UNITED STATES OF AMERICA,

Plaintiff,

v.

Gabriella Adriana HERNANDEZ-Garcia,
AKA: Adriana HERNANDEZ-Garcia

Defendant

Magistrate Docket No.

2008 JAN -2 AM 10:20

08 MJ 0008

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIACOMPLAINT FOR VIOLATION OF


DEPUTY

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:


On or about **December 30, 2007** within the Southern District of California, defendant, **Gabriella Adriana HERNANDEZ-Garcia, AKA: Adriana HERNANDEZ-Garcia**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 2nd DAY OF JANUARY 2008.



Cathy A. Bencivengo
UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:

Gabriella Adriana HERNANDEZ-Garcia

AKA: Adriana HERNANDEZ-Garcia

PROBABLE CAUSE STATEMENT

I declare under the penalty of perjury that the following statement is true and correct:

On December 30, 2007, Border Patrol Agent J. Ortiz responded to a call from the San Diego Sheriff's Department for translation purposes in the 100 block of S. Rancho Santa Fe in San Marcos, California.

Upon arriving at the scene Deputy R. Hudson asked Agent Ortiz to interview the subject later identified as the defendant **Gabriella Adriana HERNANDEZ-Garcia**, AKA: Adriana HERNANDEZ-Garcia. Agent Ortiz identified himself as a Border Patrol Agent and questioned the defendant as to her citizenship. The defendant said she was a citizen of Mexico. Agent Ortiz asked the defendant if she had immigration documents that would allow her to be in the United States. The defendant states that she did not have any immigration documents. The defendant was arrested at approximately 9:30 P.M., and was transported to the San Clemente Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of her criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to Mexico on November 1, 2007 through San Ysidro, California. These same records show that the defendant has not applied for permission from the Attorney General of the United States or her designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

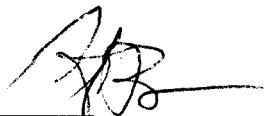
The defendant was advised of her Miranda Rights, which she stated that she understood and was willing to answer questions without having an attorney present. The defendant stated that she is a citizen and national of Mexico and that on or about November 2, 2007, she illegally re-entered into the United States near San Ysidro, California Port of Entry. She also stated that she was traveling to the San Diego area in order to be reunited with her family.

Executed on January 1, 2008 at 9:30 A.M.



Ismael A. Canto
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 1 page, I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **December 30, 2007**, in violation of Title 8, United States Code, Section 1326.



Cathy A. Bencivengo
United States Magistrate Judge

1/1/08 @ 10:30 am
Date/Time